

HOUSE BILL No. 1316

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-2-1-13.5; IC 33-37; IC 35-31.5-2-185; IC 35-50-2-18; IC 36-1-8-18.

Synopsis: Law enforcement matters. Creates a \$5 law enforcement body camera fee. Requires that the law enforcement body camera fee must be collected in any action involving the violation of an infraction or an ordinance. Requires the clerk of a circuit court to distribute the law enforcement body camera fees to the county auditor or controller. Requires the county auditor or controller to deposit money generated by the law enforcement body camera fee into a law enforcement body camera fund in certain instances. Creates a law enforcement body camera fund. Creates a \$3 law enforcement training fund fee. Requires that the law enforcement training fund fee must be collected in any action involving the commission of a traffic infraction. Requires the clerk of a circuit court to distribute the law enforcement training fund fee to the auditor of state. Requires the auditor of state to deposit money generated by the law enforcement training fund fee into the law enforcement training fund. Creates the law enforcement training fund. Adds reserve: (1) county; (2) city; (3) town; and (4) conservation; officers to the statutory definition of "law enforcement officer". Adds reserve sheriffs to the statutory definition of "law enforcement officer". Permits the state to seek a sentencing enhancement against a person who commits a crime against an individual with the intent to harm or intimidate the individual due to the individual's employment as a law enforcement officer. Specifies that the sentencing enhancement is: (1) for a felony, the lesser of the advisory sentence or 10 years; and (2) for a misdemeanor, not more than one-half of the maximum sentence for
(Continued next page)

Effective: July 1, 2016.

Price, Mahan, Olthoff, DeLaney

January 12, 2016, read first time and referred to Committee on Courts and Criminal Code.



Digest Continued

the misdemeanor. Creates a municipal law enforcement body camera fund for units that equip their law enforcement officers with body cameras. Specifies how money in a law enforcement body camera fund may be spent. Creates a law enforcement training fund.



Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1316

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-2-1-13.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2016]: **Sec. 13.5. (a) As used in this section, "eligible academy"**
4 **means a board certified:**
5 **(1) law enforcement academy, including a law enforcement**
6 **training academy established under section 10.5 of this**
7 **chapter; or**
8 **(2) training center under section 15.2 of this chapter;**
9 **that provides basic training to law enforcement officers.**
10 **(b) The statewide law enforcement training fund is established**
11 **for the purpose of providing additional funding to eligible**
12 **academies. The board shall administer the fund.**
13 **(c) The fund consists of the following:**
14 **(1) Fees deposited under IC 33-37-5-35.**
15 **(2) Appropriations from the general assembly.**



1 **(3) Gifts, grants, and donations to the fund.**

2 **(4) Interest that accrues from money in the fund.**

3 **(d) The expenses of administering the fund shall be paid from**
4 **money in the fund.**

5 **(e) The treasurer of state shall invest the money in the fund not**
6 **currently needed to meet the obligations of the fund in the same**
7 **manner as other public money may be invested. Interest that**
8 **accrues from these investments shall be deposited in the fund.**

9 **(f) Money in the fund at the end of a state fiscal year does not**
10 **revert to the state general fund.**

11 **(g) The board shall adopt rules under IC 4-22-2 to distribute**
12 **money in the fund to eligible academies.**

13 **(h) All money deposited in the fund is continuously**
14 **appropriated for the purposes of the fund.**

15 SECTION 2. IC 33-37-4-2, AS AMENDED BY P.L.182-2009(ss),
16 SECTION 393, IS AMENDED TO READ AS FOLLOWS
17 [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) Except as provided in
18 subsections (d) and (e), for each action that results in a judgment:

19 (1) for a violation constituting an infraction; or

20 (2) for a violation of an ordinance of a municipal corporation (as
21 defined in IC 36-1-2-10);

22 the clerk shall collect from the defendant an infraction or ordinance
23 violation costs fee of seventy dollars (\$70).

24 (b) In addition to the infraction or ordinance violation costs fee
25 collected under this section, the clerk shall collect from the defendant
26 the following fees, if they are required under IC 33-37-5:

27 (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or
28 IC 33-37-5-4).

29 (2) An alcohol and drug services program user fee
30 (IC 33-37-5-8(b)).

31 (3) A law enforcement continuing education program fee
32 (IC 33-37-5-8(c)).

33 (4) An alcohol and drug countermeasures fee (IC 33-37-5-10).

34 (5) A highway ~~work~~ **worksite** zone fee (IC 33-37-5-14).

35 (6) A deferred prosecution fee (IC 33-37-5-17).

36 (7) A jury fee (IC 33-37-5-19).

37 (8) A document storage fee (IC 33-37-5-20).

38 (9) An automated record keeping fee (IC 33-37-5-21).

39 (10) A late payment fee (IC 33-37-5-22).

40 (11) A public defense administration fee (IC 33-37-5-21.2).

41 (12) A judicial insurance adjustment fee (IC 33-37-5-25).

42 (13) A judicial salaries fee (IC 33-37-5-26).



(14) A court administration fee (IC 33-37-5-27).

(15) A DNA sample processing fee (IC 33-37-5-26.2).

(16) A law enforcement body camera fee (IC 33-37-5-34).

(17) A law enforcement training fund fee (IC 33-37-5-35).

(c) The clerk shall transfer to the county auditor or fiscal officer of the municipal corporation the following fees, not later than thirty (30) days after the fees are collected:

(1) The alcohol and drug services program user fee (IC 33-37-5-8(b)).

(2) The law enforcement continuing education program fee (IC 33-37-5-8(c)).

(3) The deferral program fee (subsection (e)).

The auditor or fiscal officer shall deposit the fees in the user fee fund established under IC 33-37-8.

(d) The defendant is not liable for any ordinance violation costs fee in an action if all the following apply:

(1) The defendant was charged with an ordinance violation subject to IC 33-36.

(2) The defendant denied the violation under IC 33-36-3.

(3) Proceedings in court against the defendant were initiated under IC 34-28-5 (or IC 34-4-32 before its repeal).

(4) The defendant was tried and the court entered judgment for the defendant for the violation.

(e) Instead of the infraction or ordinance violation costs fee prescribed by subsection (a), except for the automated record keeping fee (IC 33-37-5-21), the clerk shall collect a deferral program fee if an agreement between a prosecuting attorney or an attorney for a municipal corporation and the person charged with a violation entered into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires payment of those fees by the person charged with the violation. The deferral program fee is:

(1) an initial user's fee not to exceed fifty-two dollars (\$52); and

(2) a monthly user's fee not to exceed ten dollars (\$10) for each month the person remains in the deferral program.

(f) The fees prescribed by this section are costs for purposes of IC 34-28-5-5 and may be collected from a defendant against whom judgment is entered. Any penalty assessed is in addition to costs.

SECTION 3. IC 33-37-5-34 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 34. (a) This section applies to all infraction and ordinance violation actions. However, it does not apply to a case excluded under IC 33-37-4-2(d).**



(b) The clerk shall collect a law enforcement body camera fee of five dollars (\$5) in each action in which:

(1) there is a judgment for the violation of a statute defining an infraction or an ordinance; and

(2) the law enforcement agency responsible for issuing the infraction or ordinance citation for the violation makes use of law enforcement body cameras.

SECTION 4. IC 33-37-5-35 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 35. (a) This section applies to all actions involving a traffic infraction.**

(b) The clerk shall collect a law enforcement training fund fee of three dollars (\$3) in each action in which there is a judgment for the violation of a statute defining a traffic infraction.

SECTION 5. IC 33-37-7-2, AS AMENDED BY P.L.213-2015, SECTION 259, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 2. (a)** The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the homeowner protection unit account established by IC 4-6-12-9 one hundred percent (100%) of the automated record keeping fees collected under IC 33-37-5-21 with respect to actions resulting in the accused person entering into a pretrial diversion program agreement under IC 33-39-1-8 or a deferral program agreement under IC 34-28-5-1 and for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-3(a) (juvenile costs fees).

(4) IC 33-37-4-4(a) (civil costs fees).

(5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).

(6) IC 33-37-4-7(a) (probate costs fees).

(7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9-2 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).



(3) One hundred percent (100%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).

(4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).

(5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).

(6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.

(7) One hundred percent (100%) of the automated record keeping fee collected under IC 33-37-5-21 not distributed under subsection (a).

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(e) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance account established by IC 5-2-6-23(h) one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

(f) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance



fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) or the successor statewide automated support enforcement system collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS or the successor statewide automated support enforcement system collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the department of child services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS, or the successor statewide automated support enforcement system, collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(g) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the small claims service fee under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in the county general fund.

(2) One hundred percent (100%) of the small claims garnishee service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for deposit in the county general fund.

(h) This subsection does not apply to court administration fees collected in small claims actions filed in a court described in IC 33-34. The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:

(1) The public defense administration fee collected under IC 33-37-5-21.2.

(2) The judicial salaries fees collected under IC 33-37-5-26.

(3) The DNA sample processing fees collected under IC 33-37-5-26.2.

(4) The court administration fees collected under IC 33-37-5-27.

(i) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

(j) The proceeds of the service fee collected under IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2) shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the



1 service fees collected in a circuit, superior, county, or probate
 2 court to the county auditor for deposit in the county general fund.

3 (2) The clerk shall distribute one hundred percent (100%) of the
 4 service fees collected in a city or town court to the city or town
 5 fiscal officer for deposit in the city or town general fund.

6 (k) The proceeds of the garnishee service fee collected under
 7 IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as
 8 follows:

9 (1) The clerk shall distribute one hundred percent (100%) of the
 10 garnishee service fees collected in a circuit, superior, county, or
 11 probate court to the county auditor for deposit in the county
 12 general fund.

13 (2) The clerk shall distribute one hundred percent (100%) of the
 14 garnishee service fees collected in a city or town court to the city
 15 or town fiscal officer for deposit in the city or town general fund.

16 (l) The clerk of the circuit court shall distribute semiannually to the
 17 auditor of state for deposit in the home ownership education account
 18 established by IC 5-20-1-27 one hundred percent (100%) of the
 19 following:

20 (1) The mortgage foreclosure counseling and education fees
 21 collected under IC 33-37-5-33 (before its expiration on July 1,
 22 2017).

23 (2) Any civil penalties imposed and collected by a court for a
 24 violation of a court order in a foreclosure action under
 25 IC 32-30-10.5.

26 (m) The clerk of a circuit court shall distribute semiannually to the
 27 auditor of state one hundred percent (100%) of the pro bono legal
 28 services fees collected before July 1, 2017, under IC 33-37-5-31. The
 29 auditor of state shall transfer semiannually the pro bono legal services
 30 fees to the Indiana Bar Foundation (or a successor entity) as the entity
 31 designated to organize and administer the interest on lawyers trust
 32 accounts (IOLTA) program under Rule 1.15 of the Rules of
 33 Professional Conduct of the Indiana supreme court. The Indiana Bar
 34 Foundation shall:

35 (1) deposit in an appropriate account and otherwise manage the
 36 fees the Indiana Bar Foundation receives under this subsection in
 37 the same manner the Indiana Bar Foundation deposits and
 38 manages the net earnings the Indiana Bar Foundation receives
 39 from IOLTA accounts; and

40 (2) use the fees the Indiana Bar Foundation receives under this
 41 subsection to assist or establish approved pro bono legal services
 42 programs.



The handling and expenditure of the pro bono legal services fees received under this section by the Indiana Bar Foundation (or its successor entity) are subject to audit by the state board of accounts. The amounts necessary to make the transfers required by this subsection are appropriated from the state general fund.

(n) The clerk of a circuit court shall distribute monthly to the county auditor or controller one hundred percent (100%) of the fees collected under IC 33-37-5-34.

(o) The clerk of a circuit court shall distribute monthly to the auditor of state for deposit in the law enforcement training fund established by IC 5-2-1-13.5(b) one hundred percent (100%) of the law enforcement training fund fees collected under IC 33-37-5-35.

SECTION 6. IC 35-31.5-2-185, AS AMENDED BY P.L.238-2015, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 185. (a) "Law enforcement officer" means:

(1) a police officer (including a correctional police officer), sheriff, constable, marshal, prosecuting attorney, special prosecuting attorney, special deputy prosecuting attorney, the securities commissioner, or the inspector general;

(2) a **reserve officer** or deputy of any of those persons;

(3) an investigator for a prosecuting attorney or for the inspector general;

(4) a conservation officer;

(5) an enforcement officer of the alcohol and tobacco commission;

(6) an enforcement officer of the securities division of the office of the secretary of state; or

(7) a gaming agent employed under IC 4-33-4.5 or a gaming control officer employed by the gaming control division under IC 4-33-20.

(b) "Law enforcement officer", for purposes of IC 35-42-2-1 **and IC 35-50-2-18**, includes an alcoholic beverage enforcement officer, as set forth in IC 35-42-2-1.

(c) "Law enforcement officer", for purposes of IC 35-45-15 **and IC 35-50-2-18**, includes a federal enforcement officer, as set forth in IC 35-45-15-3.

(d) "Law enforcement officer", for purposes of IC 35-44.1-3-1, **and IC 35-44.1-3-2, and IC 35-50-2-18**, includes a school resource officer (as defined in IC 20-26-18.2-1) and a school corporation police officer appointed under IC 20-26-16.

SECTION 7. IC 35-50-2-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY



1, 2016]: Sec. 18. (a) The state may seek, on a page separate from the rest of the charging instrument, to have a person who allegedly committed an offense sentenced to an additional fixed term of imprisonment if the state can show beyond a reasonable doubt that the person committed the offense with the intent to harm or intimidate an individual because of the individual's employment as a law enforcement officer (as defined in IC 35-31.5-2-185).

(b) If the person is convicted of the offense in a jury trial, the jury trial shall reconvene to hear evidence in the enhancement hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall hear evidence in the enhancement hearing.

(c) If the jury (if the hearing is by jury) or the court (if the hearing is to the court alone) finds that the state has proved beyond a reasonable doubt that the person committed the offense with the intent to harm or intimidate an individual because of the individual's employment as a law enforcement officer, the court shall sentence the person to an additional fixed term of imprisonment of:

(1) if the offense is a felony, not more than:

(A) the advisory sentence for the felony; or

(B) ten (10) years;

whichever is less; or

(2) if the offense is a misdemeanor, not more than one-half (1/2) of the maximum sentence for the misdemeanor.

(d) If the defendant is convicted of more than one (1) offense with the intent to harm or intimidate an individual because of the individual's employment as a law enforcement officer, the court may impose only one (1) additional fixed term of imprisonment, which the court shall attach to the most serious offense committed with the intent to harm or intimidate an individual because of the individual's employment as a law enforcement officer.

(e) A sentence imposed under this section runs consecutively to the underlying sentence.

SECTION 8. IC 36-1-8-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 18. (a) As used in this section, "body camera" means a camera or other device for creating audio, visual, or audiovisual recordings that is designed to be worn and used by a law enforcement officer in the performance of the officer's duties.

(b) As used in this section, "fund" means a law enforcement body camera fund of a unit established under subsection (f).



1 (c) As used in this section, "law enforcement officer" has the
2 meaning set forth in IC 35-31.5-2-185.

3 (d) As used in this section, "unit" has the meaning set forth in
4 IC 36-1-2-23.

5 (e) This section applies to a unit only if the unit's police
6 department has provided its law enforcement officers with body
7 cameras.

8 (f) Each unit subject to this section shall establish a law
9 enforcement body camera fund.

10 (g) A law enforcement agency seeking funds for a law
11 enforcement body camera fund must submit to the county auditor
12 or controller a verified statement of cause numbers associated with
13 infraction and ordinance violations that include surcharges
14 collected under IC 33-37-5-34 issued by the requesting law
15 enforcement agency.

16 (h) Upon receipt of the verified statement described in
17 subsection (g), the county auditor or controller shall deposit all fees
18 collected under IC 33-37-5-34 for the provided cause numbers into
19 the appropriate unit's law enforcement body camera fund.

20 (i) Except as provided in subsection (k), money in a law
21 enforcement body camera fund does not revert to the unit's general
22 fund. Money in a law enforcement body camera fund may be used
23 only for the following purposes:

24 (1) The maintenance of a unit's law enforcement body
25 cameras.

26 (2) The purchase of law enforcement body cameras for a
27 unit's law enforcement agency or law enforcement agencies.

28 (3) The replacement of a unit's law enforcement body
29 cameras.

30 (4) Expenses related to the storage of footage obtained by a
31 unit's law enforcement body cameras.

32 (5) Expenses related to the redacting or editing of footage
33 obtained by a unit's law enforcement body cameras.

34 (6) Expenses related to litigation regarding a unit's use of:

35 (A) law enforcement body cameras; or

36 (B) law enforcement body camera footage.

37 (7) Any other purpose related to a unit's use of law
38 enforcement body cameras.

39 (j) The unit's legislative body may provide by ordinance that
40 expenditures may be made from the fund without appropriation.

41 (k) If the unit's police department discontinues use of body
42 cameras, all remaining money in the unit's law enforcement body



- 1 **camera fund reverts to the unit's general fund.**

